

## LEGISLATIVE BILL 217

Approved by the Governor April 7, 2005

Introduced by Flood, 19; Connealy, 16; Cornett, 45; Janssen, 15; Pahls, 31;  
Smith, 48; Synowiecki, 7

AN ACT relating to public financing; to amend sections 13-808, 13-2530, and 13-2531, Revised Statutes Supplement, 2004; to adopt the Public Facilities Construction and Finance Act; to change provisions relating to bonds of joint entities and joint public agencies; to harmonize provisions; to provide severability; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Public Facilities Construction and Finance Act.

Sec. 2. It is the purpose of the Public Facilities Construction and Finance Act to allow local governmental units which cooperate with other governmental units to issue bonds to finance joint projects which may be serviced by property taxes, regardless of the restrictions on the issuance of debt contained in other statutory provisions, home rule charters, or the limitations in section 77-3442, for the acquisition, construction, financing, operation, and ownership of (1) public buildings and related improvements to real estate, recreational facilities and related improvements, flood control and storm water drainage, and street and road construction and improvements and (2) information technology for libraries operated by counties, municipalities, school districts, educational service units, and community colleges.

Sec. 3. For purposes of the Public Facilities Construction and Finance Act:

(1) Bond measure means a resolution or ordinance which authorizes bonds to be issued and sold in accordance with the act and which sets the terms of such bonds;

(2) Joint project means a project financed and operated by at least two or more qualified public agencies cooperating as a joint entity or joint public agency for (a) any public building or buildings and related improvements to real estate, including parking facilities, any recreational facilities and related improvements to real estate, any flood control and storm water drainage, and any street and road construction and improvements and related fixtures and (b) any item of hardware or software used in providing for the delivery of information, including the purchasing of upgrades or related improvements to information technology for the operation of libraries operated by counties, municipalities, school districts, educational service units, and community colleges; and

(3) Qualified public agency means any city, village, municipal county, community college, county, educational service unit, rural or suburban fire protection district, hospital district, school district, and sanitary and improvement district.

Sec. 4. (1) In addition to any other borrowing powers provided for by law, a qualified public agency shall have the power to issue its negotiable bonds to any joint entity as defined in section 13-803 or to any joint public agency as defined in section 13-2503 in connection with any joint project which is to be owned, operated, or financed by the joint entity or joint public agency for the benefit of the qualified public agency. The bonds may be issued only if the second largest participant in the joint project has a financial contribution in the joint project of at least twenty-five percent of the debt service. Such bonds may be issued after the qualified public agency has conducted a public hearing on the issuance of bonds. Notice of such public hearing shall be given by publication in a newspaper of general circulation within the territory of the qualified public agency by at least one publication occurring not less than ten days prior to the time of hearing. After the public hearing, the governing body of the qualified public agency may proceed to adopt a bond measure authorizing bonds.

(2) Notice of any such bond measure shall be given by publication of notice of intention to issue bonds in a newspaper of general circulation within the territory of the qualified public agency at least twice after the adoption of the bond measure. Such publications shall be at least three weeks apart. The notice shall state:

- (a) The name of the qualified public agency;
- (b) The purpose of the issue;

(c) The principal amount of the issue;

(d) The amount of annual debt service payment anticipated for the bonds, which may be stated as an approximation or estimate, and the anticipated duration for such debt service payments; and

(e) The time and place where a copy of the form of the bond measure may be examined for a period of at least thirty days.

(3) No election shall be required prior to the issuance of bonds under the Public Facilities Construction and Finance Act unless, within sixty days after the first publication of the notice of intention to issue bonds, a remonstrance petition against the issuance of bonds is filed with the clerk or secretary of the qualified public agency. Such remonstrance petition shall be signed by registered voters of the qualified public agency equal in number to at least five percent of the number of registered voters of the qualified public agency at the time the remonstrance petition is filed or at least the number of signatures listed in subsection (5) of this section for the applicable qualified public agency, whichever is less. If a remonstrance petition with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the qualified public agency at a general election or a special election called for the purpose of approving the bonds proposed to be issued. Any joint project for which bonds are issued in accordance with the procedures of the act shall not require any other approval or proceeding by the governing body or the voters of the qualified public agency.

(4) No election shall be required for any qualified public agency not issuing bonds to participate in such joint project unless, within sixty days after the governing body of the qualified public agency adopts the measure approving the interlocal or cooperative agreement related to the joint project, a remonstrance petition is filed with the clerk or secretary of the qualified public agency. Such remonstrance petition shall be signed by registered voters of the qualified public agency equal in number to at least five percent of the number of registered voters of the qualified public agency at the time the remonstrance petition is filed or at least the number of signatures listed in subsection (5) of this section for the applicable qualified public agency, whichever is less. If a remonstrance petition with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the qualified public agency at a general election or a special election called for the purpose of approving the interlocal or cooperative agreement related to the joint project.

(5) The chart in this subsection provides the alternative number of signatures of registered voters of a qualified public agency which may be used to submit a remonstrance petition under subsection (3) or (4) of this section. The classification of counties in section 23-1114.01 applies for purposes of this section.

<u>Qualified Public Agency</u>	<u>Number of Signatures of Registered Voters</u>
<u>City of the Metropolitan Class</u>	<u>1500</u>
<u>City of the Primary Class</u>	<u>1000</u>
<u>City of the First Class</u>	<u>750</u>
<u>City of the Second Class</u>	<u>250</u>
<u>Villages</u>	<u>50</u>
<u>Municipal County</u>	<u>1500</u>
<u>Class 7 County</u>	<u>1500</u>
<u>Class 6 County</u>	<u>1000</u>
<u>Class 5 County</u>	<u>750</u>
<u>Class 4 County</u>	<u>500</u>
<u>Class 3 County</u>	<u>250</u>
<u>Class 2 County</u>	<u>100</u>
<u>Class 1 County</u>	<u>50</u>
<u>Class VI School District</u>	<u>250</u>
<u>Class V School District</u>	<u>1500</u>
<u>Class IV School District</u>	<u>1000</u>
<u>Class III School District</u>	<u>500</u>
<u>Class II School District</u>	<u>250</u>
<u>Class I School District</u>	<u>250</u>
<u>Educational Service Unit</u>	<u>250</u>
<u>Community College Area</u>	<u>1500</u>
<u>Fire Protection District</u>	<u>500</u>
<u>Hospital District</u>	<u>500</u>
<u>Sanitary and Improvement District</u>	<u>500</u>

Sec. 5. For joint projects described in subdivision (2)(a) of section 3 of this act, the principal amount of bonds which may be issued by a qualified public agency under the Public Facilities Construction and Finance

Act shall not exceed five million dollars as to the total principal amount of such bonds which may be outstanding at any time, and the annual amounts due by reason of such bonds from each qualified public agency shall not exceed five percent of the restricted funds of the obligated qualified public agency in the year prior to issuance. The principal amount of bonds of qualified public agencies in the aggregate issued for any one such joint project shall not exceed five million dollars.

Sec. 6. For joint projects described in subdivision (2)(b) of section 3 of this act, the principal amount of bonds which may be issued by a qualified public agency under the Public Facilities Construction and Finance Act shall not exceed two hundred fifty thousand dollars for cities of the metropolitan and primary classes, one hundred thousand dollars for counties, cities of the first class, school districts, educational service units, and community colleges, and fifty thousand dollars for cities of the second class and villages, as to the total principal amount of such bonds which may be outstanding at any time, and the annual amounts due by reason of such bonds from each qualified public agency shall not exceed five percent of the restricted funds of the obligated qualified public agency in the year prior to issuance. The principal amount of bonds of a qualified public agency in the aggregate issued for any one such joint project shall not exceed two hundred and fifty thousand dollars for cities of the metropolitan and primary classes and one hundred thousand dollars for counties, cities of the first class, cities of the second class, villages, school districts, educational service units, and community colleges.

Sec. 7. Any qualified public agency which has issued bonds in accordance with the Public Facilities Construction and Finance Act shall levy and collect taxes on all the taxable property within the territory of the qualified public agency, in addition to all other taxes, for the purpose of paying the principal and interest of such bonds as the principal and interest become due. Taxes levied for such purposes shall not be subject to the limitations in section 77-3442. The levying of taxes to pay such bonds for any county shall be subject to the constitutional limitation upon levying taxes by a county.

Sec. 8. The Public Facilities Construction and Finance Act shall be independent of and in addition to any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and bonds may be issued under the act for any purpose authorized in the act even though other provisions of the laws of the State of Nebraska or provisions of home rule charters may provide for the issuance of bonds for the same or similar purposes. The act shall not be considered amendatory of or limited by any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and bonds may be issued under the act without complying with the restrictions or requirements of any other provisions of the laws of the State of Nebraska or without complying with the restrictions or requirements of home rule charters. Nothing in the act shall prohibit or limit the issuance of bonds in accordance with the provisions of other applicable laws of the State of Nebraska or of home rule charters if the governing body determines to issue such bonds under such other laws or charter, or otherwise limit the provisions of any home rule charter.

Sec. 9. Section 13-808, Revised Statutes Supplement, 2004, is amended to read:

13-808. (1) Any joint entity may issue such types of bonds as its governing body may determine subject only to any agreement with the holders of outstanding bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenue from one or more projects, from one or more revenue-producing contracts, including securities acquired from any person, bonds issued by any qualified public agency under the Public Facilities Construction and Finance Act, or leases made by the joint entity with any person, including any of those public agencies which are parties to the agreement creating the joint entity, or from its revenue generally or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the joint entity from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

(2) Any bonds issued by such joint entity shall be issued on behalf of those public agencies which are parties to the agreement creating such joint entity and shall be authorized to be issued for the specific purpose or purposes for which the joint entity has been created. Such specific purposes may include, but shall not be limited to, joint projects authorized by the Public Facilities Construction and Finance Act; solid waste collection, management, and disposal; waste recycling; sanitary sewage treatment and

disposal; public safety communications; correctional facilities; water treatment plants and distribution systems; drainage systems; flood control projects; fire protection services; ground water quality management and control; education and postsecondary education; hospital and other health care services; bridges, roads, and streets; and law enforcement.

(3) As an alternative to issuing bonds for financing public safety communication projects, any joint entity may enter into a financing agreement with the Nebraska Investment Finance Authority for such purpose.

(4) Any joint entity formed for purposes of providing or assisting with the provision of public safety communications may enter into an agreement with any other joint entity relating to (a) the operation, maintenance, or management of the property or facilities of such joint entity or (b) the operation, maintenance, or management of the property or facilities of such other joint entity.

Sec. 10. Section 13-2530, Revised Statutes Supplement, 2004, is amended to read:

13-2530. (1) Any joint public agency may issue such types of bonds as its board may determine subject only to any agreement with the holders of outstanding bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenue from one or more projects, from one or more revenue-producing contracts, including securities acquired from any person, bonds issued by any qualified public agency under the Public Facilities Construction and Finance Act, or leases made by the joint public agency with any person, including any of the public agencies which are parties to the agreement creating the joint public agency, or from its revenue generally or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the joint public agency from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

(2) Any bonds issued by such joint public agency shall be issued on behalf of the joint public agency solely for the specific purpose or purposes for which the joint public agency has been created. Such specific purposes may include, but shall not be limited to, joint projects authorized by the Public Facilities Construction and Finance Act; solid waste collection, management, and disposal; waste recycling; sanitary sewage treatment and disposal; public safety communications; correctional facilities; water treatment plants and distribution systems; drainage systems; flood control projects; fire protection services; ground water quality management and control; education and postsecondary education; hospital and other health care services; bridges, roads, and streets; and law enforcement.

(3) As an alternative to issuing bonds for financing public safety communication projects, any joint public agency may enter into a financing agreement with the Nebraska Investment Finance Authority for such purpose.

(4) Any joint public agency formed for purposes of providing or assisting with the provision of public safety communications may enter into an agreement with any other joint public agency relating to (a) the operation, maintenance, or management of the property or facilities of such joint public agency or (b) the operation, maintenance, or management of the property or facilities of such other joint public agency.

Sec. 11. Section 13-2531, Revised Statutes Supplement, 2004, is amended to read:

13-2531. Any joint public agency may from time to time issue its bonds in such principal amounts as its board determines is necessary to provide sufficient funds to carry out any of the joint public agency's purposes and powers, including the establishment or increase of reserves, the payment of interest accrued during construction of a project and for such period thereafter as the board may determine, and the payment of all other costs or expenses of the joint public agency incident to and necessary or convenient to carry out its purposes and powers. Except as provided in section 4 of this act, bonds issued for purposes of the Public Facilities Construction and Finance Act may be issued with no requirement for a vote.

Sec. 12. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 13. Original sections 13-808, 13-2530, and 13-2531, Revised Statutes Supplement, 2004, are repealed.